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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,743	12/21/2001	Thomas G. Triebs	KCX-495 (17557)	3702
22827	7590	03/08/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			SIMONE, CATHERINE A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/036,743

**Applicant(s)**

TRIEBES ET AL.

**Examiner**

Catherine Simone

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 54-63 and 65-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54-63 and 65-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/16/06 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 54-60, 62, 63 and 66-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Littleton et al. (US 5,792,531) in view of Joung (US 4,302,852).

Regarding claims 54, 55, 56, 58-60, 62, 63, 66, 67, 68 and 70, Littleton et al. discloses an elastomeric glove comprising a substrate body shaped to the contours of the hand, the substrate body including a layer made of at least one elastomeric block copolymer such as styrene-ethylene-butylene-styrene triblock copolymer (see col. 3, lines 13-20), the substrate body having an inside surface and an outside surface (Fig. 2A, #24); a donning layer overlying the inside surface of the substrate body and faces an internal, body-contacting surface of the elastomeric

glove (see col. 3, lines 3-8); and a lubricant layer overlying an inside surface of the donning layer (see col. 4, lines 30-37). However, Littleton et al. fails to disclose a chemical protection layer overlying the outside surface of the substrate body and faces an external, environment-exposed surface of the elastomeric glove and the chemical protection layer being formed from a polymeric material that consists essentially of at least one crosslinked, modified silicone elastomer and has a thickness of from about 0.01 mm to about 0.20 mm.

Joung teaches that it is old and well-known in the analogous art to have an outer layer (Fig. 3, element 6 and see col. 3, lines 54-58) overlying the outside surface of an elastomeric glove and facing an external, environment-exposed surface of the elastomeric glove formed from a polymeric material consisting essentially of at least one crosslinked, modified silicone elastomer wherein the modified silicone elastomer is methyl-modified silicone (see col. 4, lines 35-38) and has a thickness of from about 0.01 mm to about 0.20 mm (see col. 3, lines 26-29) for the purpose of providing increased external slip resistance to the elastomeric glove and an improved grip which is important in handling delicate surgical instruments, particularly in a wet surgical sight.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the outside, external, environment-exposed surface of the elastomeric glove in Littleton et al. with a chemical protection layer having a thickness of from about 0.01 mm to about 0.2 mm formed from a polymeric material consisting essentially of at least one crosslinked, modified silicone elastomer wherein the modified silicone elastomer is a methyl-modified silicone as suggested by Joung in order to provide increased

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external slip resistance to the elastomeric glove and an improved grip which is important in handling delicate surgical instruments, particularly in a wet surgical sight.

Furthermore, regarding claims 57 and 69, Littleton et al. and Joung teach the elastomeric glove as shown above except for the modified silicone elastomer containing a diphenyl-modified dimethylsilicone. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the outside surface of the elastomeric glove in Littleton et al. with a chemical protection layer of a crosslinked, modified silicone elastomer as suggested by Joung and to have modified the modified silicone elastomer to contain a diphenyl-modified dimethylsilicone, since it has been held that a change in the material would be an unpatentable modification in absence of showing unexpected results and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

2. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Littleton et al. (US 5,792,531) in view of Joung (US 4,302,852) and in view of Littleton et al. (US 6,730,380).

Littleton et al. '531 in view of Joung teaches the elastomeric glove as shown above. However, Littleton et al. '531 fails to disclose the donning layer containing syndiotactic 1,2 polybutadiene. Littleton et al. '380 teaches that it is old and well-known in the analogous art to have an elastomeric glove with a donning layer containing syndiotactic 1,2 polybutadiene (see col. 2, lines 30-32) for the purpose of having a donning layer that does not crack or peel from the substrate body during storage or service and provide the glove with the ability to be easily donned without the presence of any powder. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the

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donning layer in Littleton et al. '531 to contain syndiotactic 1,2 polybutadiene as suggested by Littleton et al. '380 in order to have a donning layer that does not crack or peel from the substrate body during storage or service and to provide the glove with the ability to be easily donned without the presence of any powder.

13. Claim 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Littleton et al. (US 5,792,531) in view of Joung (US 4,302,852) and in view of Miller et al. (US 4,061,709).

Littleton et al. in view of Joung teach the elastomeric glove as shown above. However, both Littleton et al. and Joung fail to disclose an outer layer overlying the chemical protection layer defining an external, environment exposed surface and grip surface of the elastomeric glove. Miller et al. teaches that it is old and well-known in the analogous art to have a glove formed of a plurality of layers of silicone rubber (see col. 4, lines 35-46) for the purpose of producing a glove that will impart maximum tactile sensitivity to the wearer without impairing his facility of manipulation while at the same time protecting the patient from contamination or infection. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the elastomeric glove in Littleton et al. with an outer layer to overlie the chemical protection layer and define an external, environment exposed surface and grip surface of the elastomeric glove as suggested by Miller et al. in order to provide a glove which will impart maximum tactile sensitivity to the wearer without impairing his facility of manipulation while at the same time protecting the patient from contamination or infection.

***Response to Arguments***

14. Applicant's arguments with respect to claims 54-63 and 65-70 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

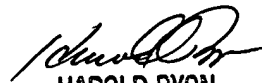
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine A. Simone  
Examiner  
Art Unit 1772  
March 1, 2006



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

3/6/06